



# Terminal Disclaimer

In re Application of:

Application No.: 09/809,291  
371 Date: March 15, 2001  
For: Fundoplication apparatus and method

The owner\*, Medigus Ltd., of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,872,214 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37

CFR 1.321;

- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney or agent of record. Reg. No. 35,278

Signature Date

Kevin D. McCarthy  
Roach Brown McCarthy & Gruber, P.C.  
420 Main Street - 1620 Liberty Building  
Buffalo, New York 14202  
Telephone Number: 716-852-0400

Terminal disclaimer fee under 37 CFR 1.20(d) (\$65) included.